

National Aeronautics and Space Administration

Headquarters

Washington, DC 20546-0001



June 11, 2013

Reply to Attn of:

Office of Communication
Headquarters, FOIA Office

Michael Morisy
MuckRock News
DEPT MR 5277
P.O. Box 55819
Boston, MA 02205-5819
5277-85526841@requests.murckrock.com

FOIA: 13-HQ-F-00611

Dear Mr. Morisy:

Thank you for your Freedom of Information Act (FOIA) request dated and received May 6, 2013, at the NASA Headquarters FOIA Office. Your request was assigned FOIA Case Number 13-HQ-F-00611 and was for:

A copy of all responses sent to Congressional committees between January 1, 2008 and the date that this request is processed.

In your letter, you also requested a fee waiver stating, "fees be waived as I believe this request is in the public interest."

NASA's regulations state that records shall be furnished without charge if disclosure of the information is in the public interest because it:

- (1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and
- (2) Is not primarily in the commercial interest of the requester (14 CFR § 1206.702).

NASA considers the following factors when determining whether disclosure of information is likely to contribute significantly to public understanding of the operations or activities of the Government:

- (1) Does the record specifically concern identifiable operations or activities of the Agency? If the record(s) concern the operations or activities of the Agency, is disclosure likely to contribute to public understanding of those operations and activities? To qualify as a FOIA-recognized public interest in disclosure,

the information must shed light on an agency's performance of its statutory duties.

- (2) If the record(s) concern the operations or activities of the Government, is disclosure likely to contribute to public understanding of those operations or activities? Are the disclosable contents of the record(s) meaningfully informative in relation to the subject of the request? For example, is the information of wide public interest and will your disclosure be unique in enhancing public knowledge.
- (3) Is the focus of the requester on contributing to public understanding, rather than on the individual understanding of the requester or a narrow segment of interested persons?

If there is likely to be a contribution to public understanding, will that contribution be significant? A contribution to public understanding will be significant if the information disclosed is new, clearly supports public oversight of Agency operations, including the quality of Agency activities and the effect of policy and regulations on public health and safety, or otherwise confirms or clarifies data on past or present operations of the Agency. Your identity, vocation, qualification(s), and expertise regarding the requested information may be relevant factors. However, you must demonstrate how you plan to disclose the information. Also, the dissemination of information must be to the general public or a reasonably broad audience. (Dissemination to a wide audience is not merely posting the documents on a website, but providing an informative analysis of the information.) Public understanding must be enhanced by disclosure to a significant extent (see Sierra Club Legal Def. Fund. No. 93-35383, slip op. at 4). (14 CFR § 206.702, Waiver or reduction of fees)

We have reviewed your letter and determined that your justification does not adequately address or answer the above questions and does not meet the threshold for granting a fee waiver under the regulations of the Agency. You failed to explain how this information would contribute to the public understanding of NASA operations. Requesters who make no showing of how the information would be disseminated, other than through passively making it available to anyone who might seek access to it, do not meet the burden of demonstrating with particularity that the information will be communicated to the public (U.S. Department of Justice Guide to the Freedom of Information Act Guide, May 2009, page 131); also see FOIA Update, Vol. VIII, No. 1 at 8 ("OIP Guidance: New Fee Waiver Policy Guidance"). Finally, you failed to show a current public interest in the information, rather you expressed a possible passive public interest. Therefore, we are denying your request for a waiver of fees for this FOIA request. We are processing your request in the 'other' category of requester. Requesters in the 'other' category are entitled to two hours of search and 100 pages of copy fees without charge (14 CFR § 1206.701(d)).

Under 14 CFR § 1206.605, you may appeal this response by writing to:

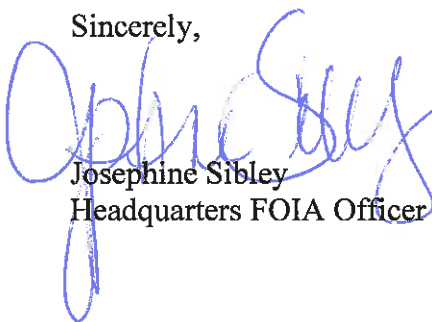
Administrator
NASA Headquarters
Mail Stop: FOIA, Room 9J74
300 E Street S.W.
Washington, DC 20546
ATTN: FOIA Appeals

Your appeal must be received within 30 calendar days after the date of this letter. The appeal should be marked, both on the envelope and the face of the appeal letter, with the legend "FREEDOM OF INFORMATION APPEAL." Your appeal should be accompanied by a copy of your original request and this letter, along with a brief statement of the reasons why you believe this initial decision to be in error.

Your request will be placed in the 'complex' category as it will require extensive search, review, submitter notices, and coordination with our Office of General Counsel. In accordance with 14 CFR § 1206.702 and Department of Justice guidance, we will not proceed further with your request until we receive written notification from you agreeing to pay all fees associated with processing your request. Alternatively, you may provide a maximum dollar amount to process this request. If you choose to provide a maximum dollar amount, please provide the order in which you would like us to process the documents associated with your request. You may also choose to limit the scope of your request to reduce processing fees. If we do not hear from you within 20 workdays of the date of this letter, we will assume you are no longer interested in this matter and close the file on your request.

I am the official responsible the denial of your request. Please contact me at hq-foia@nasa.gov or 202-358-2642 if you require further assistance.

Sincerely,



Josephine Sibley
Headquarters FOIA Officer